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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/474,542	12/29/1999	ELWYN B. DAVIES	476-1884	2366

7590 10/27/2003

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EXAMINER
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HA, YVONNE QUY M

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/474,542

Applicant(s)

DAVIES, ELWYN B.

Examiner

Yvonne Q. Ha

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. Claims 1-9 are pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 8, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Riggan et al. (US Patent 6,490,252).

Referring to claims 1 and 8, Riggan discloses a method of operating a connectionless network (Figure 2, reference 305) to provide a priority routing service (col. 2, line) for traffic between a predetermined network user and a plurality of customers communicating with said user (Col. 4, Lines 45-46) via said network (Figure 2, reference 305), the network comprising a plurality of network elements and links between (Figure 2, references 204a, 204b), the method comprising: monitoring network to determine an actual, or expected, congestion (Col. 4, Lines 15-17; Figure 2, reference 206), maintaining an express route for carrying traffic (Col. 2, lines 51-59), the express route comprising one or more said links between two end elements (Figure 2, references 300a and 300b); identifying at one or both said end elements data packets originating from said user and destined for a said customer or data packets originating from a said customer

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and destined for said user (Col. 2, lines 9-11) and diverting said packets along said express route (Col. 4, lines 48-55).

Referring to claim 2, Riggan discloses all aspects of the claimed invention and further teaches a route is bi-directional, both said end elements being arranged to identify and divert said packets (Col. 1, lines 58-61; Figure 2, references 300a and 300b; packets can be routed from end node 300a to node 300b and node 300b to 300a).

Referring to claim 3, Riggan discloses all aspects of the claimed invention and further teaches reserving bandwidth on said links forming said route (Col. 1, lines 54-57; Col. 2, lines 5-8).

Referring to claim 4, Riggan discloses all aspects of the claimed invention and further teaches a route has one end element adjacent or forming the network entry point of said user (Col. 1, lines 58-61; Figure 2, references 300a and 300b).

Referring to claim 9, Riggan discloses identifying elements of the network where traffic between user and customers is concentrated and selecting one of the identified elements where traffic is concentrated as one of the end elements of the express route (Col. 2, lines 5-17; Col. 4, lines 45-55).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riggan et al. (US Patent 6,490,252) in view of Kodialam et al. (US Patent 6,538,991).

Referring to claim 5, Riggan discloses all aspects of the claimed invention and further teaches diverting step within one said end element such that data packets having a destination address corresponding to said user are diverted along said route (Col 2, lines 9-18) but fails to disclose the use of forwarding table. Kodialam discloses the use of forwarding table (Col. 10, lines 48-51). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teaching of Riggan diverting traffic upon notification from network manager to ensure quality of service with the teaching of Kodialam use of forwarding table constructed with information from network management system to store routing information based on destination addresses. One of ordinary skill in the art would have been motivated to combine the teaching of Riggan diverting traffic upon notification from network manager to ensure quality of service with the teaching of Kodialam use of forwarding table constructed with information from network management system to store routing information based on destination addresses because it allows for constrained based routing to be defined based on instruction by controller with information from network manager.

Referring to claim 6, Riggan discloses all aspects of the claimed invention and further teaches filtering data packets within the other said end element such that data packets are diverted along said route (Col. 2, lines 5-18) but fails to disclose the use of source address for routing. Kodialam discloses the use destination address in the forwarding table (Col. 10, lines 48-51). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teaching of Riggan diverting traffic upon notification from network

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manager to ensure quality of service with the teaching of Kodialam use of forwarding table constructed with information from network management system to store routing information based on source addresses. One of ordinary skill in the art would have been motivated to combine the teaching of Riggan diverting traffic upon notification from network manager to ensure quality of service with the teaching of Kodialam use of forwarding table constructed with information from network management system to store routing information based on source addresses because it allows for constrained based routing to be defined based on instruction by controller with information from network manager.

Referring to claim 7, Riggan discloses a network element for use in a connectionless network (Figure 2, reference 305) comprising a plurality of network elements and links there between (Figure 2, references 204a, 204b), the network element and an express route for carrying traffic between a predetermined network user and a plurality of customers (Col. 2, lines 51-59), the express route comprising one or more links between two end elements which bypasses a congestion point (Col. 4, lines 48-55), the network element comprising: means for routing data packets onto another element and filter means for identifying and diverting data packets having a source address corresponding to a user (Col. 2, lines 9-11), said identified packets being diverted to an element not specified by said routing means and forming part of an express route for said user (Col. 4, lines 48-55) but fails to disclose the use of destination address for routing. Kodialam discloses the use destination address in the forwarding table (Col. 10, lines 48-51). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teaching of Riggan diverting traffic upon notification from network manager to ensure quality of service with the teaching of Kodialam use of forwarding table

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constructed with information from network management system to store routing information based on destination addresses. One of ordinary skill in the art would have been motivated to combine the teaching of Riggan diverting traffic upon notification from network manager to ensure quality of service with the teaching of Kodialam use of forwarding table constructed with information from network management system to store routing information based on destination addresses because it allows for constrained based routing to be defined based on instruction by controller with information from network manager.

### *Response to Arguments*

6. Applicant's arguments filed on 8/27/03 have been fully considered but they are not persuasive. New ground of rejection is presented to claims 1-9. The Final Office Action on 7/2/03 has been withdrawn.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Farris et al. (US Patent 6,574,216) discloses packet data network voice call quality monitoring
- Farris et al. (US Patent 6,154,445) discloses telephony communication via varied redundant networks
- Voelker (US Patent 6,370,112) discloses seamless path switchover in a connection-oriented packet network
- Shaffer et al. (US Patent 6,236,642) discloses network resource preservation

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- Riggan et al. (US Patent 6,490,252) discloses prevention of cell loss due to QoS contracts in an ATM network
- Shirai et al. (US Patent 5,912,877) discloses data exchange, terminal accommodated in the same data communication system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne Q. Ha whose telephone number is 703-305-8392. The examiner can normally be reached on Monday-Friday 7a.m.-4p.m. Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 703-305-4366. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

YQH



WELLINGTON CHIN  
SUPERVISORY PATENT EXAMINER  
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